IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.7631 OF 2005

Tanveer Chaman Khan Applicant

versus

The State of Maharashtra Respondents

A.P.Mundargi, Sr.Counsel i/by Rajeev Sawant & Associates for applicant.

Mrs.S.D.Shinde, APP for respondents.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 25th November 2005

PC :

1. Anticipatory Bail Application No.1167 of 2005 which was preferred by the applicant herein before the Sessions Court, at Mumbai was rejected on the grounds that same is withdrawn.

2. It is in the aforesaid circumstances that the applicant has applied for Anticipatory Bail. In the application, explanation is given for absence during the course of proceedings namely prosecution of the anticipatory bail application before the Sessions Court. The applicant has stated on oath that he was required to go in the

State of Rajasthan because of several deaths in the family. It is on that count that he could not attend the Court on 2-3 occasions and also could not inform his advocate. In the absence of instructions, the applicant's application was dismissed for non prosecution.

3. Mr.Mundargi, learned Senior Counsel appearing in support states that the applicant deserves a chance to apply for anticipatory bail by pointing out merits of his case. He submits that the applicant has now returned to Mumbai. The applicant will not in any manner misuse the interim protection granted by this Court, as also he will regularly attend the Court (Sessions Court), if his anticipatory bail is restored to file.

4. Ms.Shinde, learned APP for the respondents points out that the learned Judge having dismissed the application for want of prosecution and that too on the ground of applicant's absence, no orders be passed on this application.

5. In my view, considering the fact that the applicant has averred in the present application that he has been unable to attend the Sessions

Court on account of deaths in the family and now since 22nd November 2005 he has returned back to Mumbai and shall co-operate in the investigation as also attend the Court, Criminal Bail Application No.1167 of 2005 stands restored to the file of the learned Additional Sessions Court, Mumbai for being decided on merits and in accordance with law.

6. The applicant shall remain present before the learned Additional Sessions Judge on 30th November 2005 at 11.00 a.m.. Learned Judge shall thereafter take up the matter and proceed to decide the same within a period of two weeks. The applicant is present in Court. He shall attend the Police Station as and when summoned. The applicant shall surrender his pass port to the investigating authority. On these conditions, the respondents are directed not to arrest the applicant till the Sessions Court passes appropriate orders on the anticipatory bail application. It is clarified that this order has been passed without going into merits of the controversy and the Sessions Judge shall pass appropriate orders on the bail application without being influenced by the order of this Court.

(S.C.DHARMADHIKARI, J.)